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July 28, 2023

The Honorable Debbie Stabenow (D-MI)

U.S. Senator

731 Hart Senate Office Building

Washington, DC 20510

The Honorable Ben Cardin (D-MD)

U.S. Senator

520 Hart Senate Office Building

Washington, DC 20510

The Honorable Shelley Moore Capito (R-WV)

(WI)

U.S. Senator

172 Russell Senate Office Building

Washington, DC 20510

Subject: 340B Program Request for Information

Dear Senators Stabenow, Thune, Cardin, Moran, Capito, Baldwin:

I hope this letter finds you well. We appreciate your leadership in ensuring a strong 340B program that benefits patients with the most need. We at the National Hispanic Medical Association (NHMA) welcome the opportunity to comment on ways to improve and strengthen the 340B program.

Ever since our establishment in 1994, the National Hispanic Medical Association (NHMA) has been representing the interests of 50,000 licensed Hispanic physicians in the United States. The vision of the organization is to be the national leader in improving the health of Hispanic populations.

We do this by empowering Hispanic physicians to lead efforts to improve the health of Hispanic and other underserved populations in collaboration with Hispanic state medical societies, residents, medical students, and other public and private sector partners.

Our main focus has been improving the quality of life of Hispanic and underserved populations by identifying and addressing their unique needs and the issues that have the most critical impact. Through this letter, we wanted to address questions #3 and #6 from your Request for Information from June 16, 2023, which raise the issues most relevant to our mission.

The Honorable John Thune (R-ID)

U.S. Senator

511 Dirksen Senate Office Building

Washington, DC 20510

The Honorable Jerry Moran (R-KS)

U.S. Senator

521 Dirksen Senate Office Building

Washington, DC 20510

The Honorable Tammy Baldwin (D-

WI)

U.S. Senator

141 Hart Senate Office Building

Washington, DC 20510

3. *What specific policies should be considered to ensure that the benefits of the 340B program accrue to covered entities for the benefit of patients they serve, not other parties?*

The 340B program is experiencing significant growth in terms of covered entities without any requirement to ensure that patients benefit from lower out-of-pocket costs on medications. The program's loose rules, primarily based on guidance rather than legal mandates, along with inadequate oversight and lack of transparency, have allowed hospitals and for-profit entities to take advantage of program loopholes, while leaving underserved patients at a disadvantage. Simply implementing contract pharmacy policies without comprehensive reforms will not effectively address the critical abuses within the 340B program.

Congress can no longer ignore these issues. Hospitals in underserved areas have reduced essential services while directing resources to more profitable child sites located in wealthier regions, enabling them to increase their 340B profits by charging higher rates to private insurers. Despite financial gains for hospitals, there is no clear evidence of expanded care or reduced mortality among low-income patients. As a result, hospitals are resorting to aggressive debt collection and cutting back on basic but less profitable services and sites, contradicting the original purpose of the 340B program. This penalizes the very communities and vulnerable patients that the program was intended to serve, especially in Black and Brown communities.

This is why Congress must update the definition of “eligible patient” to require covered entities claiming 340B discounts to maintain consistent responsibility for patient treatment, and the drug for which the discount is claimed should be an integral part of that treatment.

6. *What specific policies should be considered to ensure transparency to show how 340B health care providers' savings are used to support services that benefit patients' health?*

In order to improve transparency and comprehension of how covered entities are utilizing their 340B savings to enhance access to care and ensure eligible patients are benefiting from 340B discounts, there should be a requirement for public reporting of basic information regarding their involvement in the program, abased on the definition proposed for eligibility. This would provide a clearer picture of their practices and outcomes.

To strengthen the eligibility criteria for hospitals participating in the 340B program, stricter standards should be implemented. For instance, hospitals should be required to provide a minimum level of charity care, demonstrating their commitment to serving low-income and vulnerable populations. Additionally, hospitals should not engage in aggressive debt collection practices against patients with medical debt, ensuring that the program's benefits are genuinely reaching those in need without causing undue financial burden.

Please don't hesitate to let me know if there's any way I can support your work on improving this program.

Sincerely,



Elena Rios, MD, MSPH, MACP
President & CEO, NHMA